

Case No. 23-15494

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

FELIX MENDELSON AS TRUSTEE FOR THE SHTAIMAN FAMILY TRUST,

Plaintiff/Appellant,

v.

COUNTY OF SAN MATEO,

Defendant/Appellee.

Appeal from the United States District Court for the Northern District of California

Case No. 20-cv-5696-AGT

The Honorable Alex G. Tse, United States Magistrate Judge

**APPELLEE'S MOTION TO STAY BRIEFING PENDING RESOLUTION
OF *RALSTON V. SAN MATEO COUNTY*, NO. 21-16489**

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COUNTY OF SAN MATEO

MEMORANDUM

By this motion, Defendant-Appellee County of San Mateo asks the Court to stay the briefing schedule in this matter, pending resolution of a closely related case before the U.S. Supreme Court. Pursuant to the Court's April 4, 2023, Time Schedule Order, the opening brief in this case is due May 30, 2023, and the answering brief is due June 29, 2023. (Decl. of Lauren F. Carroll, Ex. A.) Plaintiff-Appellant Felix Mendelson does not oppose this motion. (Carroll Decl. ¶ 2.)

The related case is *Randy Ralston, et al. v. San Mateo County, California, et al.*, Ninth Circuit Case No. 21-16489, Supreme Court Application No. 22A865. *Mendelson* and *Ralston* present similar facts and legal issues. In both cases, the plaintiffs own land on the coast of San Mateo County and wish to develop that land. Both plaintiffs claim that the County's riparian corridor regulations are so restrictive that they amount to an unconstitutional taking by the County. At this stage, the core legal issue in both cases is whether the claims are ripe for adjudication under *Williamson County Regional Planning Comm'n v. Hamilton Bank of Johnson City*, 473 U. S. 172, 194 (1985). Neither plaintiff has applied for a development permit, and, in the County's view, the County has not had the opportunity to apply its regulations to a concrete development proposal.

On Nov. 1, 2022, this Court concluded that *Ralston* was not ripe, and the *Ralston* plaintiffs intend to appeal that decision to the U.S. Supreme Court. Their petition for writ of certiorari is due June 19, 2023. (Carroll Decl. Ex. B.) If the Supreme Court decides to hear *Ralston*, the resulting opinion will have direct bearing on this Court's considerations in *Mendelson*. It is in the interest of judicial economy to postpone any briefing, arguments, and decisions in this case until the Supreme Court has taken final action in *Ralston*.

We respectfully ask the Court to grant this motion.

Dated: April 28, 2023

JOHN D. NIBBELIN, COUNTY COUNSEL

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